

REMARKS

Claims 13-16 are pending in the application upon entry of this amendment. Original claims 1-12 have been canceled, and new claims 13-16 have been submitted. Favorable reconsideration of the application is respectfully requested in view of the claim amendments and following remarks.

I. Objection To the Abstract

The Examiner objects to the specification as not containing an Abstract within the proper application format. The current application is a national phase entry from a PCT application pursuant to 35 U.S.C. § 371. In accordance with the Examiner's comments, Applicants have amended the specification so as to formally incorporate the Abstract from the published PCT application as a separate page. The objection, therefore, should be withdrawn.

II. Claim Rejections – 35 U.S.C. § 101

The Examiner rejects original claim 7 pursuant to 35 U.S.C. § 101 as reciting non-statutory subject matter, particularly a computer program *per se*. The specific rejection is moot in view of the cancellation of claim 7. Applicants further note that in accordance with the Examiner's comments, new claim 16 recites a "non-transitory computer readable storage medium having stored thereon a program for use in a system controller." Accordingly, new claim 16 lacks the deficiency of original claim 7 and recites statutory subject matter pursuant to 35 U.S.C. § 101.

III. Double Patenting

Claims 1-12 stand rejected pursuant to the doctrine of non-statutory type double patenting. In particular, the Examiner has concluded the current claims are not patentably distinct over claims 1-8 of Application Serial No. 10/597,863 in that the claims of the co-pending application allegedly anticipate the claims of the current application. The specific rejection is moot in view of the cancellation of original claims 1-12.

Applicants further note that in accordance with the Examiner's comments, claims 1-8 of the co-pending application do not teach all the features of new claims 13-16

submitted herein. In particular, new independent claim 13 recites in part to ***update the file entry of the metadata file after a pseudo-overwrite operation***, which is not recited in claims 1-8 of the co-pending application. Accordingly, a double patenting rejection would not be proper as to new independent claim 13, and thus not proper as to new dependent claims 14-16. The double patenting rejection, therefore, should be withdrawn.

IV. Allowable Subject Matter

The Examiner has concluded original claims 2-4 recite allowable subject matter, although the Examiner objects to such claims as depending (directly or indirectly) from rejected base claim 1. In accordance with the Examiner's comments, new independent claim 13 incorporates the features of allowable claims 2-4. Accordingly, independent claim 13 is allowable, and new claims 14-16 are allowable for at least the same reasons.

V. CONCLUSION

For the foregoing reasons, claims 13-16 are allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988, Docket No. YAMAP1017US.

Respectfully submitted,

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